

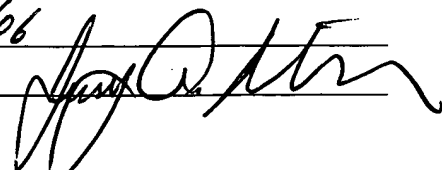
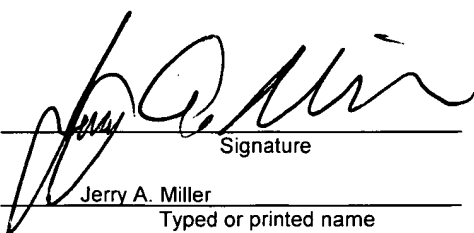


Docket Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paper work Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR PANEL REVIEW		Docket Number (Optional) SNY-T5712.02	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope address to "Mail Stop AF, Commissioner Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>11/8/06</u> Signature <u></u> Typed or printed name <u>Jerry A. Miller</u>		Application Number 10/802,007	Filed 3/16/2004
		First Named Inventor Pedlow, Jr. et al.	
		Art Unit 2131	Examiner SHIN HON CHEN
Applicant requests review of the final rejection in the above-identified application by a panel of Examiners. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>30779</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____		<u></u> Signature <u>Jerry A. Miller</u> Typed or printed name <u>(919) 816-9981</u> Telephone number <u>11/8/06</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14, and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of:

Inventor(s) : Pedlow, Jr., et. al.  
Filed : 3/16/2004  
Application No. : 10/802,007  
Confirmation No. : 3328  
Group Art Unit : 2131  
Examiner : Chen, Shin Hon  
Docket Number : SNY-T5712.02  
Title : DYNAMIC COMPOSITION OF PRE-ENCRYPTED VIDEO  
ON DEMAND CONTENT

-----  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### CERTIFICATE OF MAILING / FAX TRANSMISSION

I hereby certify that this correspondence is, on the date shown below, being deposited with the U.S. Postal Service as first class mail with sufficient postage in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Applicant, Assignee or Reg. Representative: Jerry A. Miller, Reg. No. 30779

Signature: 

Date: 11/18/06

### PRE-APPEAL BRIEF REVIEW REMARKS

This communication is responsive to the Office Action dated 8/9/2006, and subsequent advisory action in which all claims were rejected under 35 U.S.C. §103(a). Applicant(s) respectfully traverse the rejections and request reconsideration by the Pre-Appeal Brief Review Panel in view of the following. Applicants' reasons for traversing the rejections are explained in the prior Office Action responses of record, but are summarized below.

The Colligan reference is the primary reference used in all rejections in this action. In particular, the process described in col. 7, lines 35-59 describing the process of Fig. 7, and col. 11, lines 48-57 are pointed out as teaching portions of Applicants' claims.

Application No.: 10/802,007

The process of Fig. 7, as described in Colligan, is a “multi-layer encryption process”. In Colligan, content is pre-encrypted at the source using single DES encryption and then later double DES encrypted at the server (the order of single or double DES encryption may be reversed). The resulting content is, therefore, triple encrypted. Inherently, this means that three keys are required to decrypt the content.

Colligan explicitly states at col. 7, lines 56-59 that “As long as the subscriber station has the three keys required, it will be able to fully decrypt (706) the triple-DES encryption to obtain the unencrypted video program”. Hence, in order for the user to access the encrypted content, three separate keys must be used to decrypt, then decrypt again, then decrypt a third time the encrypted content. This process differs dramatically from the claimed invention and in no way teaches or suggests the process carried out as claimed.

Applicants’ claims call for a single segment to be duplicated and encrypted so that each copy is encrypted individually using separate encryption methods. The Office Action points to parts of col. 11 and parts of col. 7 in asserting that Colligan provides the necessary teaching. However, Colligan is in fact devoid of any such teaching of duplication and separate encryption as called for in the claims. Hence, Colligan is wholly inadequate to support the alleged teaching and thus the rejection. A broad statement that “different algorithms can be used”, as quoted by the Examiner, is far from adequate to teach or suggest the claimed process of duplication of selected content and multiple selective encryption thereof (“encrypting the selected frames under a first encryption algorithm .... encrypting the duplicates of the selected frames under a second encryption algorithm...”). Moreover, the teaching of Colligan is not enabling of such a process as claimed. The teaching is simply not there. It is noted that each and every claim limitation must be fully and properly considered in order to establish *prima facie* obviousness.

Applicants make no claim to sequential multiple encryption of the same data plural times so that multiple keys are required to decrypt. Inherently, only one key (either of two) is needed to decrypt according to Applicants’ claimed invention, since portions of the content are duplicated with each separately encrypted. Such limitations on the number of keys required for decryption are not explicitly required by the claims, since it inherently flows from duplication of content and encryption of the duplicate content using multiple encryption algorithms that

possession of a single key is adequate to access at least one copy of the encrypted content. Applicants point this out to the Examiner by way of an explanation of the fundamental difference in the claims over the cited art, and not by way of explanation of an allegedly absent claim limitation per se.

In addition to the above, the storage arrangement claimed has not been found in the cited references.

In order to establish *prima facie* obviousness, it is fundamental and a requirement of the MPEP that each and every feature of the claims must be shown in the cited art. In this case, there is no teaching or suggestion in any of Colligan, Simec or Nardone of duplication of content and encryption of duplicate copies of the content under differing encryption algorithms as claimed. The Office Action quotes the feature from the claims, but the indicated passages fail to teach, suggest or even remotely hint at this claimed feature.

Applicants ask the Panel to consider each element of claim 12, as demonstrative of the shortcomings of the rejection as follows:

1	A method of processing digital video content, wherein the digital video content comprises intra-coded frames and inter-coded frames, the method comprising:	
2	duplicating the intra-coded frames;	<u>No teaching or suggestion in Colligan, Nardone, or Simec taken singly or in combination of duplication of the intra-coded frames.</u>
3	selecting a plurality of the intra-coded frames for encryption to produce selected frames;	Nardone only teaches selection of BTUs (which may be an I frame) for <u>single</u> selective encryption.
4	<u>encrypting the selected frames</u> under a first encryption algorithm to produce first encrypted frames;	See 5
5	<u>encrypting the duplicates of the selected frames</u> under a second encryption algorithm to produce second encrypted frames;	Applicants' claims require that multiple sets of encrypted frames be created – a first set of the selected frames are encrypted under the first encryption algorithm while the duplicates of the selected frames are

		encrypted under the second encryption algorithm. This is neither taught nor suggested by Colligan, Nardone, or Simec taken singly or in combination. The Examiner apparently suggests that this is disclosed in Colligan col. 7, lines 35-59, and col. 11, lines 48-57 – and states that this teaches that “different encryption algorithms may be used”. Respectfully, the claims require more and the claim features are neither taught nor suggested. This failure to properly consider the claim features results in a fatal flaw in the rejection.
6	storing the inter-coded frames in a first file;	See 8
7	storing the intra-coded frames, whether encrypted under the first encryption algorithm or unencrypted, in a second file; and	See 8
8	storing the intra-coded frames, whether encrypted under the second encryption algorithm or unencrypted, in a third file.	As best Applicants can determine, neither Colligan, Nardone, or Simec singly or in combination, disclose the file storage arrangement using three separate files as claimed. The use of the three specified files facilitates VOD server based trick play modes as further claimed in certain of the dependent claims (e.g., claims 17 and 18, for example). Hence, this claim feature has not been accorded proper consideration.

The present Final Office Action and Advisory Action take a simplistic view of the claim language and the issues at hand without addressing the failure to consider all claim features as noted above (by way of illustrative example). Applicants’ discussion of the number of keys needed is submitted as a fundamental difference that is helpful in illustration of the basic differences between the claims and the cited art, but is taken literally as an argument specific to claim language that is not present. The fact is that the claims distinguish without need for such language – but Applicants present the argument as a key to understanding the difference between multiple selective encryption (where two or more duplicate copies of the content are separately

encrypted – hence decryption of one is adequate to restore the original content) versus sequential encryption so that multiple keys are required to do the encryption.

In view of the above, it is submitted that all claims (all contain similar features to those discussed above) are not obviated by the cited combination of art in view of the requirements of MPEP 2143.03 which requires that all claim limitations must be taught or suggested in order to establish *prima facie* obviousness. The above clearly establishes that certain of the claim features have not been fully and properly considered. Hence, it is submitted that *prima facie* obviousness has not been established and all claims are in condition for allowance. Such allowance is respectfully requested as a result of the Panel Review.

Respectfully submitted,

/Jerry A. Miller 30779/

Jerry A. Miller  
Registration No. 30,779

Dated: 10/10/2006

Please Send Correspondence to:  
Miller Patent Services  
2500 Dockery Lane  
Raleigh, NC 27606  
Phone: (919) 816-9981  
Fax: (919) 816-9982  
**Customer Number 24337**